Appendix A

OPINION BELOW

The opinion of the Supreme Court of Ohio is officially reported in 167 Ohio State 295. A copy of this opinion is attached.

APPENDIX A

In The

SUPREME COURT OF OHIO

Nos. 34311, 34361

THE STATE OF OHIO,

Appellee,

v.

MORGAN,

Appellant.

THE STATE OF OHIO,

Appellee,

v.

RALEY, et al.,

Appellants.

SYLLABUS BY THE COURT

On remand from the Supreme Court of the United States (February 11, 1958).

Per Curiam. In compliance with the mandates of the Supreme Court of the United States, this court has considered the causes in the light of *Sweezy* and *Watkins*

cases and do not find enough similarity to warrant a change in our former judgments. The former judgments of this court as reported in 164 Ohio St., 529, are adhered to.

Former judgments adhered to.

WEYGANDT, C. J., ZIMMERMAN, MATTHIAS and BELL, JJ., concur.

TAFT, J., dissenting. I have no sympathy for the attitude and conduct of these defendants. However, for the reasons briefly stated in my dissenting opinion at the time of the previous hearing of these cases, it is my firm belief that this court cannot affirm the judgment of the Court of Appeals in either case without adding provisions to our statutes which were never enacted by the General Assembly. Under the Ohio Constitution, this court has no such legislative authority.

APPENDIX B

PAGE'S OHIO REVISED CODE, TITLE 1, p. 8

Section 101.44 TESTIMONY BEFORE COMMITTEE NOT TO BE USED IN CRIMINAL PROSECUTION OF WITNESS; EXCEPTION.

Except a person who, in writing, requests permission to appear before a committee or subcommittee of the general assembly, or of either house thereof, or who, in writing, waives the rights, privileges, and immunities granted by this section, the testimony of a witness examined before a committee or subcommittee shall not be used as evidence in a criminal proceeding against such witness, nor shall a person be prosecuted or subjected to a penalty or forfeiture on account of a transaction, matter, or thing, concerning which he testifies, or produces evidence. This section does not exempt a witness from the penalties for perjury.

APPENDIX C

PAGE'S OHIO REVISED CODE, TITLE 27, p. 57

Section 2705.02 ACTS IN CONTEMPT OF COURT.

A person guilty of any of the following acts may be punished as for a contempt:

(A) Disobedience of, or resistance to, a lawful writ, process, order, rule, judgment, or command of a court or an officer;

(B) Misbehavior of an officer of the court in the performance of his official duties, or in his official transactions;

(C) A failure to obey a subpoena duly served, or a refusal to be sworn or to answer as a witness, when lawfully required;

(D) The rescuse, or attempted rescue, of a person or of property in the custody of an officer by virtue of an order or process of court held by him;

(E) A failure upon the part of a person recognized to appear as a witness in a court to appear in compliance with the terms of his recognizance.

APPENDIX D

PAGE'S OHIO REVISED CODE, TITLE 1, pp. 19-20

UN-AMERICAN ACTIVITIES COMMISSION

Section 103.31 UN-AMERICAN ACTIVITIES COMMISSION.

There is hereby created an un-American activities commission in the legislative branch of the government, consisting of six members of the senate and six members of the house of representatives, respectively. The president pro tempore of the senate and the speaker of the house of representatives shall be members and shall appoint as

members of the commission five additional members in each house, not more than three of whom shall be members of the same political party. When a vacancy of the membership of the commission occurs it shall be filled in the same manner as the original appointments.

Section 103.32 ORGANIZATION.

The un-American activities commission shall organize by selecting from its membership a chairman, a vice-chairman, and a secretary. The members of the commission shall serve without compensation but shall be reimbursed for their actual and necessary expenses incurred in the discharge of their official duties.

Section 103.33 LEGAL DIRECTOR AND ASSISTANTS.

The un-American activities commission shall employ and fix the compensation of a legal director who shall employ, with the approval of the commission, such assistants, stenographers, and clerks, and engage the services of such professional investigators or technical advisors as the commission deems necessary to carry out the objects and purposes of section 103.34 of the Revised Code.

The salaries and all expenses incurred by the commission shall be paid from the state treasury upon the warrant of the auditor of state by voucher approved by its chairman.

Section 103.34 Supra p. 4.

Section 103.35 POWERS OF CHAIRMAN AS TO WITNESSES.

In the discharge of any duties imposed by sections 103.31 to 103.38, inclusive, of the Revised Code, the chairman of the un-American activities commission may, throughout the state, administer oaths, issue subpoenas compelling the attendance of witnesses and the production

of any papers, books, accounts, records, documents, and testimony, and cause the deposition of witnesses either residing within or without the state. In case of disobedience on the part of any person to comply with a subpoena issued on behalf of the commission or on the refusal of any person or officer to testify to any matters regarding which he may be lawfully interrogated, or to conform to section 2705.02 of the Revised Code, the chairman may be authorized by a majority of the members sitting at the time the alleged offense is committed, to cause a proceeding for contempt to be filed and prosecuted in the court of common pleas of any country under sections 2705.03 to 2705.09, inclusive, of the Revised Code. Each witness appearing before the commission by its order, other than a state official or employee, shall receive such compensation as the commission directs and mileage in the amounts provided by section 2335.08 of the Revised Code. Fees shall be authorized and paid after a notation has been made on the proper voucher sworn to by such witness and approved by the chairman of the commission.

Section 103.36 STUDIES MAY BE REQUIRED TO BE SUBMITTED.

Each officer, board, commission, or department of the state government or of any local government shall make such studies as the un-American activities commission requires within the limitations of its budget and shall furnish the commission all such assistance, information, records, and documents as it requires for the accomplishment of its duties. Reports and recommendations resulting from such studies shall be presented to the commission at least within sixty days prior to the regular session of the 100th General Assembly.

Appendix D

The commission may require the services of the bureau of code revision, judicial council, legislative reference bureau, legislative research commission, the Ohio program commission, and such other departments and agencies as it deems necessary to prepare a program of legislation as provided by section 103.34 of the Revised Code.

Section 103.37 MEETINGS; SUBCOMMITTEES.

The un-American activities commission shall meet as often as is necessary to perform its duties, provided that in any event it shall meet at least once each quarter. Five members constitute a quorum, and the majority thereof have authority to act on matters within the jurisdiction of the commission. The commission shall formulate such rules of procedure and policies to be followed in the performance of its duties and functions as it deems necessary and appropriate. The chairman may appoint subcommittees, consisting of not less than three members of the commission, which shall have all the powers conferred upon the commission itself by sections 103.31 to 103.38, inclusive, of the Revised Code, and such specific duties as are assigned to them. A majority of each subcommittee constitutes a quorum. The chairman of any subcommittee has all of the powers conferred upon the chairman of the commission by sections 103.31 to 103.38, inclusive, of the Revised Code.

Section 103.38 REPORTS.

The un-American activities commission shall keep minutes of each meeting or hearing and a record of all testimony and evidence submitted to it. It may make such reports, findings, and recommendations, based upon its investigations and studies, as it deems advisable and necessary, to the people, the members of the One Hundredth General Assembly, individually, or in any special session

thereof, and to the governor. It shall complete its work by and render a final report of its activities and of its recommendations to the One Hundredth General Assembly, the governor, and the attorney general on January 31, 1954, at which time all of its records, books, documents, and other property shall be committed to the attorney general. Any member of the general assembly, the governor, or the attorney general shall have the right to attend any session of the commission, and may present his views on matters which the commission may be considering.

APPENDIX E

Judgment and Order Appealed From
THE SUPREME COURT OF OHIO

Case No. 34361

THE STATE OF OHIO,

Plaintiff-Appellee,

v.

TALMADGE RALEY, JOSEPH STERN and EMMETT CALVIN BROWN,

Defendants-Appellants.

JOURNAL ENTRIES

JOURNAL 42, pages 503-504

APPEAL FROM THE COURT OF APPEALS OF HAMILTON COUNTY

This day this cause came on for consideration on the Mandate of the Supreme Court of the United States received

and filed herein July 24, 1957, remanding the cause to this Court for further consideration, said Mandate being in the words and figures following, to wit:

UNITED STATES OF AMERICA, SS;

THE PRESIDENT OF THE UNITED STATES OF AMERICA:

To the Honorable the Judges of the Supreme Court of the State of Ohio, Greeting:

WHEREAS, Lately in the Supreme Court of the State of Ohio, before you, or some of you, in a cause between State of Ohio, plaintiff-appellee, and Talmadge Raley, Joseph Stern, and Emmett Calvin Brown, defendants-appellants, No. 34361, wherein the judgment of said Supreme Court duly entered on the 23rd day of February A. D. 1956 is in the following words, viz:

"This cause came on to be heard upon the transcript of the Record of the Court of Appeals of Hamilton County, and was argued by counsel. On consideration whereof, it is ordered and adjudged by this court, that the judgment of the said Court of Appeals be, and the same is hereby affirmed; and it appearing to the Court that there were reasonable grounds for this appeal it is ordered that no penalty be assessed herein.

It is further ordered that the appellee recover from the appellants its costs herein expended taxed at $———.

Ordered, that a special mandate be sent to the Court of Common Pleas of Hamilton County, to carry this Judgment into Execution.

Ordered, that a copy of this entry be certified to the Clerk of the Court of Appeals, of Hamilton County, "for entry."

as by the inspection of the transcript of the record of the said Supreme Court which was brought into the SUPREME COURT OF THE UNITED STATES by virtue of an appeal agreeably to the act of Congress in such case made and provided, fully and at large appears.

AND WHEREAS, in the present term of October, in the year of our Lord one thousand nine hundred and fifty-six, the said cause came on to be heard before the SUPREME COURT OF THE UNITED STATES on the said transcript of record and was duly submitted.

ON CONSIDERATION WHEREOF, It is ordered and adjudged by this Court that the judgment of the said Supreme Court in this cause be, and the same is hereby vacated with costs.

It is further ordered that Talmadge Raley, et al. recover from the State of Ohio One Hundred Dollars ($100) for their costs herein expended.

It is further ordered that this cause be, and the same is hereby, remanded to the Supreme Court of Ohio for consideration in the light of *Sweezy* v. *New Hampshire* by Wyman, Attorney General, No. 175, October Term, 1956, decided June 17, 1957, and *Watkins* v. *United States*, No. 261, October Term 1956, decided June 17, 1957.

JUNE 24, 1957

And the same is hereby remanded to you, the said judges of the said Supreme Court of the State of Ohio, in order that such proceedings may be had in the said cause, in conformity with the judgment and decree of this Court above stated, as, according to right and justice, and the Constitution and laws of the United States, ought to be had therein, the said appeal notwithstanding.

Appendix E

Witness the Honorable EARL WARREN, Chief Justice of the United States, the twenty-second day of July, in the year of our Lord one thousand nine hundred and fifty-seven. Costs of Talmadge Raley et al.

Clerk $100.00

JOHN T. FEY,
Clerk of the Supreme Court of the United States.
By: /s/ R. J. BLANCHARD,
R. J. BLANCHARD,
Deputy.

FILED
JULY 24, 1957
SUPREME COURT OF OHIO
ELLIOT E. WELCH, CLERK

In compliance with the Mandate of the Supreme Court of the United States this cause came on to be considered in the light of the decision of the Supreme Court of the United States in the case of *Sweezy* v. *New Hampshire*, 354 U. S., 234, and the cause of *Watkins* v. *United States*, 354 U. S. 178, and was argued by counsel. On consideration whereof, it is ordered and adjudged that this court does not find enough similarity with the *Sweezy* and *Watkins* cases to warrant a change in its former judgment.

It is further ordered that the judgment of this court as reported in 164 O. S. 529, be and the same hereby is, adhered to.

Ordered, That a special mandate be sent to the Court of Common Pleas of Hamilton County to carry this judgment into Execution.

Ordered, That a copy of this entry be certified to the Court of Appeals of Hamilton County, "for entry."